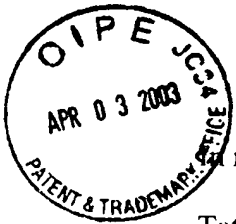


03560.002364.1 (35.G2364 DI)

PATENT APPLICATION



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Application of:

Tatsuya IWASAKI, et al.

Application No.: 09/867,611

Filed: May 31, 2001

For: NANOSTRUCTURE, ELECTRON
EMITTING DEVICE, CARBON
NANOTUBE DEVICE, AND
METHOD OF PRODUCING THE
SAME

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Examiner: D. A. Zarneke
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Group Art Unit: 2827
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April 3, 2003
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Commissioner for Patents
Washington, D.C. 20231

THIRD INFORMATION DISCLOSURE STATEMENT

Sir:

In compliance with the duty of disclosure under 37 C.F.R. § 1.56 and in accordance with the practice under 37 C.F.R. §§ 1.97 and 1.98, the Examiner's attention is directed to the document listed on the enclosed Form PTO-1449. A copy of the listed document is also enclosed.

The listed document was cited in Search Report dated February 28, 2003, in a corresponding European application and may be relevant for the reasons noted therein. A copy of the Search Report, as well as an English language abstract of the cited document, are also enclosed.

STATEMENT UNDER 37 C.F.R. § 1.97(e)

Each item of information in this information disclosure statement was first cited in any communication from a foreign Patent Office in a counterpart foreign application not more than three months prior to the filing date of this Statement. Accordingly, no fee is believed to be required for consideration of this Information Disclosure Statement. However, the Commissioner is hereby authorized to charge any fee which may be required in connection with this paper to Deposit Account No. 06-1205. A duplicate of this paper is enclosed for that purpose.

CONCLUSION

It is respectfully requested that the above information be considered by the Examiner and that the enclosed Form PTO-1449 be returned with the next official communication indicating that such information has been considered.

Applicants' undersigned attorney may be reached in our Washington, D.C.
office by telephone at (202) 530-1010. All correspondence should continue to be directed
to our below-listed address.

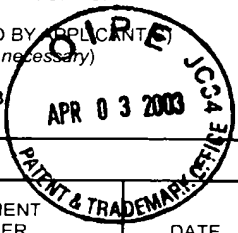
Respectfully submitted,



Attorney for Applicants
Michael E. Kondoudis
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FITZPATRICK, CELLA, HARPER & SCINTO
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DC_MAIN 126872 v 1

FORM PTO 1449 (modified) U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE LIST OF REFERENCES CITED BY APPLICANT (Use several sheets if necessary) Date Submitted to the PTO: April 3, 2003				ATTY DOCKET NO. 03560.002364.1 (35.G2364 DI)		APPLICATION NO. 09/867,611	
				APPLICANT Tatsuya IWASAKI, et al.			
				FILING DATE May 31, 2001		GROUP 2827	



U.S. PATENT DOCUMENTS							
*EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE	

FOREIGN PATENT DOCUMENTS							
DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION YES/NO/ OR ABSTRACT		
JP 10-12124	01/1998	Japan			Abstract		

OTHER DOCUMENTS (including Author's Own Patent Pages, Etc.)

EXAMINER	DATE CONSIDERED
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



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Patentamt

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(substantive examination)

Formalities Officer / Assistant +49 89 2399-2281
(Formalities and other matters)



Application 99 106 041.9-2208	Pub. EP 23877	Date 28.02.2003
Applicant CANON KABUSHIKI KAISHA		

Invitation pursuant to Article 96(2) and Rule 51(2) EPC

Further examination of the above application has revealed that, for the reasons given in the enclosed copy of the result of consultation by telephone on 24.02.2003, it does not meet the requirements of the European Patent Convention.

You are requested to remedy the indicated deficiencies within a

period of 2 months

from notification of this invitation.

The time limit is calculated in accordance with the provisions of Rule 78(2), 83(2) and (4) EPC.

Failure to reply to this invitation in due time will result in the European application being deemed to be withdrawn (Article 96(3) EPC).



DE LA CAL HEUSCH E
For the Examining Division

Enclosure(s): Copy of result of consultation (Form 2036)
Copy of JP 08161506 A

28.4.03 ✓
11/12/28.3. ✓

Application No.

99 106 041.9

Consultation by telephone with the applicant / representative

Despatch with a time limit of 2 month(s)

Participants

Applicant: Canon Kabushiki Kaisha

Member(s) of the
Examining Division: DE LA CAL HEUSCH E

Result of consultation

The following document/s (D) is/are cited by the examiner (see the Guidelines, C-VI, 8.9). A copy/Copies of the document/s is/are annexed to the minutes and the numbering will be adhered to in the rest of the procedure:

D3: JP 08161506 A.

Although claims 1-36 meet the requirements of Article 52(1) EPC with respect to the available prior art, amendment is required to overcome the objections below.

- 1.) In order to comply with Art. 82 EPC, the method claim 26 should be directed to the specific nanostructures of claims 1 and 2. Else, since the common inventive concept is known from D3, the application would lack unity in the sense of Art. 82 EPC. Else the applicant should file a divisional application (see, Article 76(1) and Rule 4 EPC). The time limit for filing divisional applications (Rule 25(1) EPC) must be observed.
- 2.) To meet the requirements of Rule 27(1)(b) EPC, the document D3, now closest prior art, should be identified in the description and the relevant background art disclosed therein should be briefly discussed.



2.) Independent claims should be in the two-part form in accordance with Rule 29(1) EPC, which in the present case would be appropriate, with those features known in combination from the prior art (document D3) being placed in the preamble (Rule 29(1)(a) EPC) and with the remaining features being included in the characterising part (Rule 29(1)(b) EPC).

3.) It seems that the substrate of the embodiment of claims 1 and 24 should only include semiconductors (see desc., p. 18) and that of claims 2 and 25, the semiconductors should be excluded (p. 57).

4.) When filing amended claims the applicant should at the same time bring the description into conformity with the amended claims. Care should be taken during revision, especially of the introductory portion and any statements of problem or advantage, not to add subject-matter which extends beyond the content of the application as originally filed (Article 123(2) EPC).

The inventions or embodiments not under the scope of the claims are to be excised from the claims, description and drawings.

24.02.2003

.....
Date

Enclosure(s):
Copy of JP 08161506 A



DE LA CAL HEUSCH E

.....
Examiner